

Executive Summary – Enforcement Matter – Case No. 44310
Texas Barge & Boat, Inc.
RN102037959
Docket No. 2012-1167-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Texas Barge & Boat Freeport Facility, 4115 East Floodgate Road, Freeport, Brazoria County

Type of Operation:

Barge cleaning and repair business

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 5, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$8,542

Amount Deferred for Expedited Settlement: \$1,708

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$6,834

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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RN102037959
Docket No. 2012-1167-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 1, 2012

Date(s) of NOE(s): May 22, 2012

Violation Information

1. Failed to limit the withdrawal rate of the vapor collection system to no more than 27,600 standard cubic feet per hour (“scf/hr”) when emissions are being vented to the flare. Specifically, the withdrawal rate exceeded 27,600 scf/hr between December 29, 2010 and June 28, 2011 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit (“FOP”) No. 01698, Special Terms and Conditions No. 12, and Permit No. 22106, Special Conditions No. 17D(1)].

2. Failed to report all instances of deviations. Specifically, Incident No. 153015 was not included as a deviation in the semi-annual deviation report for the December 29, 2010 through June 28, 2011 reporting period [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. 01698, General Terms and Conditions].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On September 15, 2011, an amendment to Permit No. 22106 was obtained that allows for a variable flow rate to the flare to be calculated based on the assist propane gas flow rate.

Technical Requirements:

The Order will require Respondent to:

- a. Within 30 days, implement measures and/or procedures to ensure the proper reporting of deviations in semi-annual deviation reports; and
- b. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

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Docket No. 2012-1167-AIR-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Amancio R. Gutierrez, Enforcement Division, Enforcement Team 5, MC 149, (512) 239-3921; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Mickey Tiner, President and Chief Executive Officer, Texas Barge & Boat, Inc., P.O. Box 2107, Freeport, Texas 77542

David Collins, Facility Manager, Texas Barge & Boat, Inc., P.O. Box 2107, Freeport, Texas 77542

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	29-May-2012	Screening	11-Jun-2012	EPA Due	
	PCW	26-Jun-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	Texas Barge & Boat, Inc.				
Reg. Ent. Ref. No.	RN102037959				
Facility/Site Region	12-Houston	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	44310	No. of Violations	2
Docket No.	2012-1167-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Amancio R. Gutierrez
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$5,100

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 92.0% Enhancement **Subtotals 2, 3, & 7** \$4,692

Notes Enhancement for six NOV's with same/similar violations, 11 NOV's with dissimilar violations, and two orders with denial of liability.

Culpability No 0.0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$1,250

Economic Benefit 0.0% Enhancement* **Subtotal 6** \$0

Total EB Amounts \$89
Approx. Cost of Compliance \$2,250
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$8,542

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$8,542

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$8,542

DEFERRAL 20.0% Reduction **Adjustment** -\$1,708

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY \$6,834

Screening Date 11-Jun-2012

Docket No. 2012-1167-AIR-E

PCW

Respondent Texas Barge & Boat, Inc.

Policy Revision 2 (September 2002)

Case ID No. 44310

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102037959

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	6	30%
	Other written NOVs	11	22%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 92%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for six NOVs with same/similar violations, 11 NOVs with dissimilar violations, and two orders with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 92%

Screening Date 11-Jun-2012

Docket No. 2012-1167-AIR-E

PCW

Respondent Texas Barge & Boat, Inc.

Policy Revision 2 (September 2002)

Case ID No. 44310

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102037959

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), Federal Operating Permit ("FOP") No. O1698, Special Terms and Conditions No. 12, and Permit No. 22106, Special Conditions No. 17D(1)

Violation Description Failed to limit the withdrawal rate of the vapor collection system to no more than 27,600 standard cubic feet per hour ("scf/hr") when emissions are being vented to the flare. Specifically, the withdrawal rate exceeded 27,600 scf/hr between December 29, 2010 and June 28, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to an insignificant amount of pollutants that do not exceed levels protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

181 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

Two quarterly events are recommended from December 29, 2010 to June 28, 2011.

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes The Respondent completed corrective measures on September 15, 2011, prior to the May 22, 2012 NOE date.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$71

Violation Final Penalty Total \$8,350

This violation Final Assessed Penalty (adjusted for limits) \$8,350

Economic Benefit Worksheet

Respondent Texas Barge & Boat, Inc.
Case ID No. 44310
Reg. Ent. Reference No. RN102037959
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$2,000	29-Dec-2010	15-Sep-2011	0.71	\$71	n/a	\$71
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated expense to obtain a permit amendment. The Date Required is the initial date of noncompliance. The Final Date is the date that the permit amendment was approved.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$71

Screening Date 11-Jun-2012

Docket No. 2012-1167-AIR-E

PCW

Respondent Texas Barge & Boat, Inc.

Policy Revision 2 (September 2002)

Case ID No. 44310

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102037959

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), Tex. Health & Safety Code § 382.085(b), and FOP No. O1698, General Terms and Conditions

Violation Description

Failed to report all instances of deviations, as documented during an investigation conducted from May 1 through 3, 2012. Specifically, Incident No. 153015 was not included as a deviation in the semi-annual deviation report for the December 29, 2010 through June 28, 2011 reporting period.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

The Respondent met at least 70% of the rule requirement.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended for the one deficient report.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$192

This violation Final Assessed Penalty (adjusted for limits) \$192

Economic Benefit Worksheet

Respondent Texas Barge & Boat, Inc.
Case ID No. 44310
Reg. Ent. Reference No. RN102037959
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	28-Jul-2011	31-Dec-2012	1.43	\$18	n/a	\$18

Notes for DELAYED costs

Estimated expense to implement measures and/or procedures to ensure the proper reporting of deviations in semi-annual deviation reports. The Date Required is the date that the deviation report was due. The Final Date is the date that corrective measures are estimated to be completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$18

Compliance History Report

Customer/Respondent/Owner-Operator: CN600129183 Texas Barge & Boat, Inc. Classification: AVERAGE Rating: 2.76
 Regulated Entity: RN102037959 TEXAS BARGE & BOAT FREEPORT FACILITY Classification: AVERAGE Site Rating: 2.76

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	BL0423N
	AIR OPERATING PERMITS	PERMIT	1698
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	81437
	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TX0000095695
	PETROLEUM STORAGE TANK	REGISTRATION	64696
	REGISTRATION		
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	BL0423N
	AIR NEW SOURCE PERMITS	PERMIT	22106
	AIR NEW SOURCE PERMITS	REGISTRATION	91856
	AIR NEW SOURCE PERMITS	AFS NUM	4803900126
	STORMWATER	PERMIT	TXR05P327
	WASTEWATER	PERMIT	WQ0004696000
	WASTEWATER	EPA ID	TX0126322
	POLLUTION PREVENTION PLANNING	ID NUMBER	P06988
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	BL0423N

Location: 4115 E FLOODGATE ROAD, FREEPORT, BRAZORIA CO., TX
 TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: July 05, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 11, 2007 to June 11, 2012

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Amancio R. Gutierrez Phone: (512) 239-3921

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site:

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 06/05/2008 ADMINORDER 2007-1482-AIR-E
 Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.145(2)(C)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Rqmt Prov: FOP O-01698 General Terms & Conditions OP
 Description: Failed to report a deviation within 30 days after the end of the deviation reporting period. Specifically, the semi-annual deviation report for the December 29, 2005 to June 28, 2006 deviation reporting period was due to be submitted by July 28, 2006, but was not submitted until August 27, 2007.

Effective Date: 07/20/2009 ADMINORDER 2009-0433-IWD-E
 Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: Effluent Limits PERMIT
 Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

B. Any criminal convictions of the state of Texas and the federal government.
 N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	02/23/2012	(1000101)
2	03/23/2012	(1005596)
3	04/23/2012	(1012157)
4	07/20/2007	(565703)
5	08/31/2007	(574422)
6	06/21/2007	(589818)
7	08/25/2008	(595563)
8	07/16/2007	(606028)
9	08/20/2007	(606029)
10	09/04/2007	(606030)
11	10/26/2007	(633856)
12	11/26/2007	(633857)
13	12/27/2007	(633858)
14	01/18/2008	(635976)
15	02/25/2008	(677909)
16	02/04/2008	(677910)
17	02/04/2008	(677911)
18	01/23/2008	(677912)
19	02/04/2008	(677913)
20	04/23/2008	(696741)
21	05/19/2008	(696742)
22	03/16/2009	(706994)
23	03/20/2008	(718461)
24	06/30/2008	(718462)
25	07/21/2008	(718463)
26	08/25/2008	(718464)
27	08/31/2008	(733696)
28	10/03/2008	(733697)
29	09/30/2008	(733698)
30	10/20/2008	(733699)
31	03/13/2009	(736888)
32	02/24/2009	(756851)
33	03/16/2009	(773689)
34	04/27/2009	(773690)
35	05/21/2009	(773691)
36	10/08/2009	(777501)
37	11/05/2009	(780366)
38	12/14/2009	(784428)
39	07/01/2010	(794092)
40	05/17/2010	(802413)
41	05/17/2010	(802417)
42	02/19/2010	(821439)
43	06/18/2009	(821440)
44	07/20/2009	(821441)
45	07/21/2009	(821442)
46	09/21/2009	(821443)
47	10/23/2009	(821444)
48	11/16/2009	(821445)
49	12/18/2009	(821446)
50	01/22/2010	(821447)
51	03/16/2010	(836794)
52	04/07/2010	(836795)
53	05/21/2010	(836796)
54	06/21/2010	(848077)
55	07/16/2010	(862526)
56	10/01/2010	(865091)
57	08/09/2010	(869140)
58	10/07/2011	(880710)
59	10/15/2010	(883589)
60	11/19/2010	(889966)
61	12/20/2010	(898384)
62	01/24/2011	(904222)

63 02/18/2011 (911093)
 64 03/06/2011 (918380)
 65 06/16/2011 (919627)
 66 06/23/2011 (922516)
 67 04/25/2011 (931317)
 68 05/16/2011 (940115)
 69 08/05/2011 (944163)
 70 06/16/2011 (947508)
 71 07/22/2011 (954760)
 72 09/22/2011 (967461)
 73 10/21/2011 (973404)
 74 11/28/2011 (979530)
 75 08/22/2011 (986376)
 76 12/27/2011 (986377)
 77 05/21/2012 (989854)
 78 01/23/2012 (992759)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	07/31/2007	(606029)	CN600129183	
Self Report?	YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	08/31/2007	(606030)	CN600129183	
Self Report?	YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	01/18/2008	(635976)	CN600129183	
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Date:	01/31/2008	(677909)	CN600129183	
Self Report?	YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	02/29/2008	(718461)	CN600129183	
Self Report?	YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	06/30/2008	(718463)	CN600129183	
Self Report?	YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	07/31/2008	(718464)	CN600129183	
Self Report?	YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	08/25/2008	(595563)	CN600129183	
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4)			

5C THSC Chapter 382 382.085(b)
 General Conditions, No. 8 PERMIT
 Special Terms and Conditions, No. 11 OP
 Description: Failure to control emissions of VOC on unit B-5.
 Self Report? NO
 Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 General Conditions, No. 8 PERMIT
 Special Terms and Conditions, No. 11 OP
 Description: Failure to control emissions of PM on unit B-5.
 Self Report? NO
 Classification: Minor
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Conditions, No. 4 PERMIT
 Special Terms and Conditions, No. 11 OP
 Description: Failure to restrict use to two spray guns during painting operations on unit B-5.
 Self Report? NO
 Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 5C THSC Chapter 382 382.085(b)
 General Terms and Conditions OP
 Description: Failure to submit accurate deviation reports.
 Date: 08/31/2008 (733697) CN600129183
 Self Report? YES
 Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 01/31/2009 (756851) CN600129183
 Self Report? YES
 Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2009 (773690) CN600129183
 Self Report? YES
 Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 12/04/2009 (776277) CN600129183
 Self Report? NO
 Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 S.C. 13 OP
 S.C. 9A PERMIT
 Description: Flare does not comply with 40 CFR 60.18.
 Self Report? NO
 Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter F 115.541(b)(5)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 S.C. 13 OP
 S.C. 4 PERMIT
 S.C. 7.A.(i) OP
 Description: Failure to route all vapors to the flare during barge degassing.
 Self Report? NO
 Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 S.C. 13 OP
 S.C. 15 PERMIT
 Description: Failure to route all vapors to a control device during barge degassing.
 Self Report? NO
 Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 S.C. 13 OP
 S.C. 5 PERMIT
 Description: Failed to maintain minimum vacuum on barge during deheeling and cleaning.
 Date: 07/01/2010 (794092) CN600129183

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 117, SubChapter D 117.2035(a)(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Term and Condition 1A OP
Description: Failure to provide a totalizing fuel flow meter for the boiler.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)(2)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(f)(2)
5C THSC Chapter 382 382.085(b)
SC 9B PERMIT
ST&C 11 OP
ST&C 1A OP
Description: Failure to provide continuous monitoring of the flare pilot flame.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Description: Failure to include all deviations in deviation reports.

Self Report? NO Classification: Minor
Citation: 5C THSC Chapter 382 382.085(b)
Periodic Monitoring Summary OP
Description: Failure to provide liquid level gauges on the GRPTK 1 and GRPTK 2 storage tanks (TK-1 - TK-14).

Date: 10/01/2010 (865091) CN600129183
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.5(b)
TPDES No WQ0004696000, EL&MR, No 1, pg 2 PERMIT
Description: Failure to conduct sampling at Outfall 005 each time a discharge occurs.
According to the permittee at the time of the inspection, at least three discharges occurred from Outfall 005 between January 2010 and the date of the inspection.
None of the discharges were sampled as required by the permit.

Date: 06/23/2011 (919627) CN600129183
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
SC18 PERMIT
Description: Failure to collect all emissions created during the loading of a naphtha heel into a storage tank. Cat B1.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
SC23G PERMIT
Description: Failure to tag a leaking pump for repair. Cat B18.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
SC37 PERMIT
Description: Failure to clean up a spill immediately. Cat B18.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter F 115.541(c)
5C THSC Chapter 382 382.085(b)
Description: Failure to prevent avoidable liquid and gaseous leaks during degassing. Cat B18.

Date: 06/24/2011 (922516) CN600129183
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter F 115.541(b)(2)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Term & Condition 1A OP
Description: Failure to maintain the Flare 1 (EPN: FLARE1) control efficiency of at least 90% during a degassing operation or in preparation of cleaning marine vessels on April 14, 2010. (Category B13)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 17D(1) PA
Special Terms & Conditions 1A & 11 OP
Description: Failure to maintain the Flare 1 (FLARE1) volumetric flow rate on numerous

occasions from January 2, 2010 to June 28, 2010. (Category B13)

Date: 05/22/2012 (989854) CN600129183
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter F 115.542(b)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 17 PERMIT
Special Term and Condition 12 OP
Special Term and Condition 5A(ii) OP
Description: Failure to control emissions from cleaning operations on May 9, 2011. (Category B18 violation)

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TEXAS BARGE & BOAT, INC.
RN102037959**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2012-1167-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas Barge & Boat, Inc. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a barge cleaning and repair business at 4115 East Floodgate Road in Freeport, Brazoria County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 27, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eight Thousand Five Hundred Forty-Two Dollars (\$8,542) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Eight Hundred Thirty-Four Dollars (\$6,834) of the administrative penalty and One Thousand Seven

Hundred Eight Dollars (\$1,708) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that on September 15, 2011, an amendment to Permit No. 22106 was obtained that allows for a variable flow rate to the flare to be calculated based on the assist propane gas flow rate.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have:

1. Failed to limit the withdrawal rate of the vapor collection system to no more than 27,600 standard cubic feet per hour ("scf/hr") when emissions are being vented to the flare, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit ("FOP") No. 01698, Special Terms and Conditions No. 12, and Permit No. 22106, Special Conditions No. 17D(1), as documented during an investigation conducted from May 1 through 3, 2012. Specifically, the withdrawal rate exceeded 27,600 scf/hr between December 29, 2010 and June 28, 2011.
2. Failed to report all instances of deviations, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. 01698, General Terms and Conditions, as documented during an investigation conducted from May 1 through 3, 2012. Specifically, Incident No. 153015 was not included as a deviation in the semi-annual deviation report for the December 29, 2010 through June 28, 2011 reporting period.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Texas Barge & Boat, Inc., Docket No. 2012-1167-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, implement measures and/or procedures to ensure the proper reporting of deviations in semi-annual deviation reports, in accordance with 30 TEX. ADMIN. CODE § 122.145; and
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature

could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

4/16/12

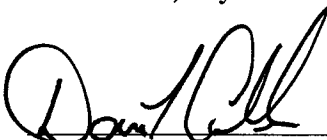
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

8-17-2012

Date

DAVID T COLLINS

Name (Printed or typed)
Authorized Representative of
Texas Barge & Boat, Inc.

FACTORY MANAGER

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.